

HOUSE BILL REPORT

HB 2164

As Reported by House Committee On:
Judiciary

Title: An act relating to evidence-based and research-based interventions for juvenile firearm offenders.

Brief Description: Requiring evidence-based and research-based interventions for juvenile firearm offenders in certain circumstances.

Sponsors: Representatives Orwall, Appleton, Carlyle and Ryu.

Brief History:

Committee Activity:

Judiciary: 1/14/14, 1/21/14 [DPS].

Brief Summary of Substitute Bill

- Requires most juveniles adjudicated of unlawful possession of a firearm to participate in certain evidence-based or research-based programs, unless no appropriate qualifying program is available.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Jinkins, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; Nealey, Assistant Ranking Minority Member; Goodman, Haler, Kirby, Klippert, Muri, Orwall, Roberts, Shea and Walkinshaw.

Staff: Omeara Harrington (786-7136).

Background:

Unlawful Possession of a Firearm.

A person is guilty of Unlawful Possession of a Firearm in the first degree if the person owns, possesses, or has in his or her control, any firearm after having previously been convicted of a serious offense. A "serious offense" includes any crime of violence and a number of other

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specified felonies. A person is guilty of Unlawful Possession of a Firearm in the second degree if the person owns, possesses, or has in his or her control any firearm and the person:

- has previously been convicted of any felony (other than a serious offense);
- has previously been convicted of certain specified gross misdemeanors;
- has previously been involuntarily committed for mental health treatment;
- is under the age of 18 (with some exceptions); or
- is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense.

Under the Juvenile Justice Act, Unlawful Possession of a Firearm in the first degree is a level B offense, resulting in a standard range disposition of local sanctions for the first or second offense. Local sanctions include one or more of the following: zero to 30 days of confinement; zero to 12 months of community supervision; zero to 150 hours of community restitution; and/or a \$0 to \$500 fine. If the juvenile has two or more prior adjudications, the juvenile is subject to confinement in a Juvenile Rehabilitation Administration (JRA) facility.

Unlawful Possession of a Firearm in the second degree is categorized as a level C offense. This results in a standard range disposition of local sanctions, with a presumptive minimum of 10 days of confinement if the violation is based on possession of a firearm as a person under 18 years old. If the juvenile has four or more prior adjudications, he or she is subject to a term of JRA confinement.

Deferred Disposition.

A juvenile offender is eligible for a deferred disposition unless he or she is charged with a sex or violent offense, has a criminal history including any felony, has a prior deferred disposition or deferred adjudication, or has two or more prior adjudications. Under a deferred disposition, the juvenile is found guilty and must complete certain conditions set out by the court, including probation and payment of restitution, in exchange for having the case dismissed.

Evidence-Based and Research-Based Programs.

The Washington State Institute for Public Policy (WSIPP) has undertaken comprehensive reviews of evidence-based policy strategies in the areas of juvenile and adult criminal justice, as well as in other public policy areas. Evidence-based practices are generally defined as those programs or policies that are supported by a rigorous outcome evaluation clearly demonstrating effectiveness. A research-based practice has some research demonstrating effectiveness, but does not yet meet the standard of an evidence-based practice.

The WSIPP maintains a list of current findings for a variety of programs, including a cost analysis that examines whether the benefits from a given program exceed its costs. The list is updated periodically as new information becomes available. Several programs that are active in Washington have been evaluated and identified as cost-beneficial by the WSIPP, including Aggression Replacement Training (ART) and Functional Family Therapy (FFT), among others.

Aggression Replacement Training.

The ART is a 10-week, 30-hour intervention administered to groups of eight to 10 youth three times per week. The ART utilizes repetitive learning techniques and guided group discussion to help the youth develop anger-control skills, employ more appropriate behaviors, and correct anti-social thinking. A juvenile offender is generally eligible for ART if it is determined, based on the results of the formal assessment tool administered by the juvenile courts, that the youth has a moderate to high risk for re-offense and is aggressive or has social skills or attitudes and beliefs that lead to anti-social behavior.

Functional Family Therapy.

The FFT is a structured, home-based family intervention involving 12 weekly visits. The FFT uses a multi-step approach to enhance protective factors (that reduce likelihood of participation in criminal activities) and reduce risk factors (that increase likelihood of participation in criminal activities) in the family. A juvenile offender is generally eligible for FFT if the formal assessment tool indicates a moderate to high risk for re-offense and significant family problems.

Summary of Substitute Bill:

A juvenile court disposition or deferred disposition for unlawful possession of a firearm must include a requirement that the juvenile participate in a qualifying evidence-based or research-based program, where available, except upon a written finding by the court that participation in a program would be inappropriate. The court's finding that program participation would be inappropriate must be based on the outcome of the juvenile's formal risk assessment, and specifically must be based on factors other than the juvenile's overall risk classification.

The description of "qualifying program" includes: (1) aggression replacement training; (2) functional family therapy; or (3) any program applicable to the juvenile firearm offender population that has been identified in the current list compiled by the WSIPP as evidence-based or research-based and cost-beneficial.

Substitute Bill Compared to Original Bill:

The circumstances are modified under which a court retains discretion to not order a juvenile adjudicated of unlawful possession of a firearm to participate in a qualifying evidence-based or research-based program. Language is removed that required the court to order participation in an available program, even upon a finding of manifest injustice, unless the juvenile had previously completed a program (in which case ordering participation would be within the court's discretion). Instead, the court must order participation in an available program unless it makes a written finding that participation in a program would be inappropriate based on factors in the juvenile's risk assessment other than overall risk classification.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 22, 2014.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a very complicated issue, and this bill is the product of a workgroup. The risk assessment given to juvenile offenders typically does not recognize juveniles who possess firearms as moderate or high risk, so they are usually ineligible for referral to an evidence-based program. A juvenile carrying a firearm is a very serious situation and requires a serious response. Currently it takes five offenses for a commitment to the JRA. Intervention should happen at an earlier point, because some juveniles will reoffend with more serious offenses.

This bill represents the correct approach to juvenile justice. Prevention and intervention strategies that are evidence-based and locally controlled should be utilized, and Washington has excellent programs for juvenile offenders. The bill may need amendment to provide more discretion allowing judges to not refer a juvenile to a program if that would be inappropriate under the circumstances. It makes more sense to remove some juveniles from the system as quickly as possible.

(With concerns) It is important to maintain fidelity to the model, and place the right juvenile in the right program. If referral is no longer based on need, the program is no longer an evidence-based program. Studies have shown increased recidivism in low risk juveniles who have been placed in programs.

(Opposed) None.

Persons Testifying: (In support) Representative Orwall, prime sponsor; Carla Lee, King County Prosecuting Attorney's Office; Travis Stearns, Washington Defender's Association; Chris Kaasa, American Civil Liberties Union of Washington; and Don Pierce, Sheriffs and Police Chiefs Association.

(With concerns) Steve Warning, Superior Court Judges Association.

Persons Signed In To Testify But Not Testifying: None.